IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WA.No. 1720 of 2007

(AGAINST THE JUDGEMENT IN WPC.12701/2007 Dated 13/04/2007)

APPELLANT/ PETITIONER

HOTEL DOUBLOON, REPRESENTED BY ITS
MANAGING DIRECTOR, R.MANILAL, KALLAMBALAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.CHITAMBARESH
ADV. SRI.T.C.SURESH MENON
ADV. SRI.JIBU P THOMAS

RESPONDENTS/ RESPONDENTS:
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1. THE ASSISTANT COMMISSIONER(ASSMT-III),
SPECIAL CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

2. THE STATE OF KERALA, RERPESENTED BY
THE SECRETARY TO TAX DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SHRI MUHAMMED RAFIQ.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1720 OF 2007

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Dated this the 25th July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The appellant/petitioner/assessee had called in question the best judgment assessment passed by the assessing authority for the assessment year 2004-05 in the Writ Petition filed.

2. The learned single Judge has rejected the Writ Petition solely on the ground that the petitioner has an alternate remedy by way of an appeal. Aggrieved by the said order passed by the learned single Judge, the assessee is before us in this Writ Appeal.

3. We do not think that the learned single Judge has committed any error whatsoever. The challenge against the orders of assessment/best judgment assessment/re-assessment order passed by the assessing authority can be taken as the subject of an appeal before the appellate forum. The appellate remedy available to the assessee is not only efficacious but also effective . Without exhausting the appellate remedy or by-passing the appellate remedy available, the appellant/petitioner/assessee could not have approached this court. Therefore, in our opinion, the learned single Judge is fully justified in rejecting the Writ Petition and in relegating the petitioner to prefer an appropriate appeal before the appellate forum.

4. Accordingly, the Writ Appeal requires to be rejected and it is rejected. Appellant/petitioner/assessee is granted 15 days' time from today

to file an appropriate appeal, if he/she/it so desires, against the orders of assessment passed by the assessing authority.

5. I.A.No. 590 of 2007 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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